

HIOSH ADVISORY COMMITTEE  
Minutes May 20, 2004

Present: Lani Bjork, Richard Botti, Steven Brooks, Paul Chang, Delbert DeRego, Robert Dove, Charles Kelley, Robert Nakamatsu, James Newberry, Ernest Reese, Clifford Uwaine, Clayton Winger, Roy Yamamoto, and Joanne Kealoha for Cherie Raymond

Absent: Arthur Akana, Wade Hashizume, Connie Hastert, Tracy Lawson, Tim Lyons, Cherie Raymond, Gareth Sakakida, Orlando Soriano (retired) and Thomas Vendetta

HIOSH: Jennifer Shishido, Mark Behrens, James Decker, Ellen Kondo, Masayoshi Ogata, and Terry Oyafuso (Recorder)

DLIR: James Hardway

Meeting was held at the Marriott Kauai Resort & Beach Club on Kauai and called to order at 1:05 pm by Chair Lani Bjork.

1. Minutes of February 19, 2004 were approved.
2. Introduction of members.
3. Injury/Illness Profile for County of Kauai 2000 - 2002
  - Had the lower workers' comp case rate than all counties except Honolulu.
  - Had the lowest in costs and days lost.
  - Fatality rate is the highest.

Why workers' comp rate is low on Kauai? It could be because workers have fewer injuries, quality of medical care, and recovering faster from injuries. Purpose of workers' comp is to provide return to work quickly.

*Question: Charles Kelley* -Is there resources to follow up on research to go deeper to get data? *Response James Decker* - need to be studied if have the resources or not.

*Response Bob Dove* - in the process of adopting the NCCI data base program and currently working on the software program. Will give status report at next meeting.

4. HIOSH Activities/Status Reports
  - a. Standards/Program Changes (Draft stage)
    - 1) PPE standards for TB - deletion of specific respiratory protection requirements for TB - means fit testing required for N-95s respirators. Respiratory protection, to apply for all respirator situations; and Commercial Diving standard amendment incorporating Dixie Divers' variance-includes rebreather requirements and allows decompression chamber off site provided access is timely.
    - 2) Program Change on Special Government Employees (SGEs)
      - Currently we have 8 SGEs.
      - Private sector S&H professionals will assist with SHARP and VPP.
      - Paid honorarium of \$100 (per employer).
      - Adhere to State ethics requirements.
      - Need federal approval.

- b. De Minimis & Notice of Violation (NOV) Policy
  - 1) Effective November 1, 2003, if hazard identified as other than serious (does not cause harm or death), corrected within 2 weeks and determined by inspector it is possible, NOV form is issued immediately on site in lieu of Citation & Notification of Penalty.
  - 2) Employer signs and agrees to give up contest rights.
  - 3) NOVs are entered into the OSHA computer.
  - 4) Can be basis for repeat (3 years), failure-to-abate, or willful.
  - 5) Similar in all respects to a Citation, need to be posted, advise employees.
  - 6) Abatement certification is still required - how corrected, request extension if unable to correct.
- c. Accidents - 1) March 2, 2004 (Kona), fatality, run over by grader - no back up alarm and no spotter (case in the process of being finalized); 2) March 11, 2004 (Hilo), estimator fell through skylight while examining roof, worker suffered injuries; 3) March 28, 2004 (Honolulu), worker's feet amputated as result of being crushed by baler/compactor, defective interlock on door - Willful and serious citations issued total penalty \$54,000.
- d. Whistleblower Investigations - Total for Fiscal Year - 5 (8 less than last year). Normal is 12-14 per year.
- e. For information - Sarbanes-Oxley Act, also known as a Corporate & Criminal Fraud Accountability Act of 2002, - involves publicly traded companies, requires Audit Committees with established procedures (complaints/concerns received); corporate attorneys are duty bound to report any violations of SEC laws despite attorney/client privilege. Also involve complaints about safety/health/environmental concerns that can impact the price of the stock (OSHA has whistleblower jurisdiction).
- f. **VPP (3 companies in Hawaii** - Chevron Hawaii Refinery, Frito-Lay and Dick Pacific, Kaneohe BEQ; **SHARP (5 companies) and 3 more end of the month;** KD Construction, Nordic Construction, RCI Construction, Jayar Construction and Maui Seaside Hotel.

Clarification on SHARP - covers only the company/jobsite, i.e. general contractor, the subs are subject to regular inspections. To cover subs, requires VPP. VPP/SHARP companies are still subject to complaint and accident inspections.

5. Other Concerns/Information

- a. Review of Committee's make-up and greater committee's participation and involvement. Comments received from the members:
  - 1) Lani Bjork - How can this committee make an impact by getting into subcommittees to address certain issues? How we can promote the advisory committee to reach out to the community?. Feedback from the members/community on a particular issue should be everyone's issue and brought to the table for discussion. Follow up to what HIOSH is doing.

- 2) Jim Newberry - How can we help HIOSH in doing a better job? Volunteered to revise current guidelines for the HIOSH Advisory Committee's purpose and representations of the group.
- 3) Paul Chang - From labor's standpoint training members with basic safety or generic training for small, 20 to 40 or less, construction companies. Construction Advisory Committee needs labor unions, small construction companies, and insurance companies involved in how to help them have a safety program that's affordable and reasonable.
- 4) Bob Dove - Concern that there are certain employees leasing companies who provide a safe haven for unsafe employers. The State has no administrative no rules to prohibit that practice. As a result, everyone pays more for worker's comp insurance except for the unsafe employer who goes with an employee leasing company in order to avoid paying the appropriate premiums based on their losses.
- 5) Charles Kelley - Have subcommittees - structure along topics or interest. Concern with reducing costs, drugs in the workplace. Endorsement by HIOSH - drug information is available on the website. Consider marketing and outreach.
- 6) Ernest Reese - Construction industry - experienced in training.
- 7) Robert Nakamatsu - State is self-insured - need to strengthen accountability of managers and supervisors.
- 8) Dick Botti - Represents 1200 small businesses with less than 30 employees. Lot of the businesses does not have the time to attend meetings or read - information needs to be repetitive. Disseminates information through newsletter and has dedicated one page to HIOSH safety issues. Utilizes HIOSH's website a lot for information. HIOSH can do PSA (public safety announcements) for certain topics and post on the website. *Dick to submit a sample to HIOSH. Requested Small Business Handbook in PDF format so he can disseminate.*
- 9) Gerald Estenzo - Accountability of managers/supervisors. As far as promoting safety it is a challenge. Kauai County for the Fiscal Year had 94 claims with 64 open.
- 10) Delbert DeRego - Disseminates information to specific workers under his charge - hotels and agriculture industries. Practice safety daily and management/employee safety committee meet once a month.
- 11) Steve Brooks - Grassroots level - making policy changes and input to HIOSH from stakeholders of the respective group. Revise current committee's policy and purpose - there are no goals and objectives.

- 12) Clayton Winger - People want to be involved, address the issues of safety and like to be recognized for the efforts, i.e. safety award.
- 13) Clifford Uwaine - Education - drug free, workplace violence, legislation
- 14) Joanne Kealoha - Saving lives and making workplace safer. Willing to help with any subcommittee.
- b) Three subcommittees
  - 1) Education
    - Workplace Violence
    - Drug free Workplace
  - 2) Legislation
  - 3) Enforcement

Question: Resources available? *Reponse: HIOSH can provide staff support for research, clerical and mail outs.*

6. Public (comments)

- a) Maryann Kusaka (former Mayor of Kauai) - she was interested in what the Advisory Committee Meeting was about. Her main concern is the drug problem in the workplace.
- b) Sean Mahoney (Hawaii Carpenters Union-Kauai) - education and training information.

HIOSH - will compile comments and send out for what should be priority areas either e-mail or form letter.

Meeting adjourned at 3:00 p.m.

Next meeting August 19, 2004  
HIOSH Training Room 427